O/Partnership/52

1952.

File No. 17/52

Legal Deptt

K **BRANCH**

Subject:— Opinion on the Indian Partnership Act.

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O/Partnership/52

File No. 17/52

Gen. 194 e.

C O N T E N T S.

Legal Department File No. C. Partnership, 1952.

Cr. No. D. L./C.P.	Subject.	Pages.
	Opinion on the Indian Partnership Act,	
1) G-37 24-1-52.	Question regarding recovery of the amount from the Kolaba transport contractors.	1-4.
2) G-182 30-4-52.	Question whether the correspondence between the Pathak Mr. Chhotalal Trikamji and the Government Circulation Deed are sufficient to establish that there was a partnership between the above mentioned persons.	5-6.

Office of the F.L.A.

Lapse of time is no bar to proof of debts in insolvency (see 1902, 2 Ch 699; 29 HLL.R. 1167). The amount due from the company till the dissolution of partnership can be claimed from the other partners (see section 25 of the Partnership Act). Steps may therefore be taken to recover the amount from the other partners and if and when the official Assignee makes the claim against Government, Government may take steps to dispute that claim and to prove its claim against the insolvent.

Sd/-

Remembrancer of Legal Affairs.

U.R. to C.S.D., No. G-37 , dated the 24th January 1952.

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Office of the P.L.A.

The question for P.L.A.'s consideration is whether the correspondence between Shri Padhiar and Shri Chhotalal Trikamji produced in this case and the subsequent dissolution deed at page 39 are sufficient to establish that there was a partnership between the abovenamed persons.

Under Section 4 of the Indian Partnership Act, partnership is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all. Section 6 provides that in determining whether a group of persons is or is not a firm or whether a person is or is not a partner in a firm, regard shall be had to the real relation between the parties as shown by all relevant facts taken together. It is not necessary that there should be a regular Partnership Deed in case of each partnership. Partnership can arise as a result of an agreement express or implied between two or more persons. Even though Shri Padhiar was stated to have been appointed as an agent by Shri Chhotalal Trikamji in his letter dated the 22nd November 1939, the fact that he was entitled to half the share of profit and loss in addition to the monthly remuneration of Rs. 100/- and the reference to 'dissolution' in the said letter clearly show that Shri Padhiar was a partner in the firm of Messrs. Chhotalal Trikamji from 1939. And in the writing dated the 31st April 1943 Shri Padhiar is stated to be a working partner. Besides Shri Padhiar has stated in his letter dated the 19th January 1952 that he was signing the chequest of the firm Chhotalal Trikamji and Company as a partner since 1939 and the accounts were opened under the signatures of himself and the other partner. He has also signed all Telephone and Railway contracts as partner and the audited accounts for ~~xxxxx~~ 1940-41 were submitted under his signature. There is therefore sufficient material on record to show that Shri Padhiar was a partner in the firm not only from 1943 but from 1939.

Sd/-

Remembrancer of Legal Affairs.

U.O.No. C.S.D., No. G-182, dated the 30th April 1952.